

EXHIBIT 1

Modified PTO/SB/33 (10-05)

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q76277	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	Filed	
	10/250,480	July 2, 2003	
	First Named Inventor		
	Nicolas CHUBERRE		
	Art Unit	Examiner	
	2618	Dominic E. REGO	
<p style="text-align: center;">WASHINGTON OFFICE 23373 CUSTOMER NUMBER</p>			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal</p> <p>The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p><input checked="" type="checkbox"/> I am an attorney or agent of record.</p> <p>Registration number <u>46924</u></p> <p style="text-align: right;"><u>/Mainak H. Mehta/</u> Signature</p> <p style="text-align: right;"><u>Mainak H. Mehta</u> Typed or printed name</p> <p style="text-align: right;"><u>(202) 293-7060</u> Telephone number</p> <p style="text-align: right;"><u>March 8, 2007</u> Date</p>			

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q76277

Nicolas CHUBERRE, et al.

Appln. No.: 10/250,480

Group Art Unit: 2618

Confirmation No.: 2478

Examiner: Dominic E. REGO

Filed: July 2, 2003

For: A DEVICE FOR OPTIMUM BROADCASTING OF INFORMATION IN A
TELECOMMUNICATION SYSTEM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the new Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated October 10, 2006, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

Independent claims 1, 7, 16

Applicant disagrees with the Examiner's assertion that Minborg is directed to broadcast technology, and instead believes that Minborg is only directed to "pull" technology. Further, Minborg cannot disclose filtering broadcast items, and controlling a switch to filter the items. Applicant also disagrees with the Examiner's citation of retransmission as recited in claim 7. These points are explained as follows.

Applicant respectfully submits that Minborg fails to disclose "a device for broadcasting information in an access network", as recited in independent claims 1, 7 and 16. Minborg discloses pull technology instead of push technology (i.e., broadcasting) - the opposite technology of the claimed invention - and fails to disclose "a mechanism configured for filtering

Pre-Appeal Brief Conference Request
USSN 10/250,480

Attorney Docket Q76277

broadcast information items that controls a switch to filter said information items”, as recited in independent claims 1, 7 and 16. While Minborg discloses filter 861 allowing data objects to be optimized according to the rendering capabilities of UE 100, applicant respectfully submits that Minborg does not disclose any mechanism that is (a) configured for filtering broadcast items, and (b) controls a switch to filter the information items. Applicant respectfully submits that filter 861 of Minborg is not disclosed to control any switch, whereas claim 1 requires that that filtering mechanism control the switch. While the Examiner characterizes filter 861 as being for “filtering broadcast information”, applicant fails to find such disclosure in Minborg, and believes that Minborg, being directed only to pull technology and not making any disclosure of using a filter for filtering broadcast information, does not disclose the feature as explained by the Examiner.

For claim 7, the Examiner agrees that Minborg and Toh do not disclose or suggest the claimed retransmission mechanism, and proposes to combine Litzenberger with Minborg and Toh to render obvious this claimed feature. Applicant respectfully submits that the Examiner’s proposed combination fails to disclose or suggest the features recited in claim 7. Applicant respectfully submits that Litzenberger cannot be properly combined with Minborg and Toh. Litzenberger is directed to the architecture of a local area network (LAN) for a large scale billing system for a telephone company, whereas Toh is directed to communication via a mobile network. Applicant respectfully submits that the transmission mechanism of Litzenberger is not properly combinable with the mobile communication system of Toh. Litzenberger is concerned with ensuring that a single copy of call record data is transmitted to various departments in a telephone company, and does not concern itself with any changes in the area of coverage, or movement of nodes to and from one another. Any retransmission mechanism combined into Toh and Minborg would have to be concerned with such changes; otherwise, it is not clear how Litzenberger would be reconfigured to work with the scheme of Minborg and Toh.

Additionally, applicant respectfully submits that while Litzenberger teaches that the call record are generated off-line and then broadcast via a LAN to client platforms, Toh requires real-time transmission of such data in its ad-hoc mobile network. Because Litzenberger requires the information to be broadcast well after the message was sent while Toh requires immediate

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broadcast, applicant respectfully submits that Litzenberger and Toh teach away from each other, and are not properly combinable. Applicant also respectfully disagrees with the Examiner's characterization of column 6, lines 48-60 of Toh as disclosing a synthesizing mechanism. Applicant respectfully submits that the passage cited by the Examiner actually only teaches that intermediate nodes *relay* the information - not *synthesizing* information, as required by claim 7.

Further, applicant respectfully submits that the proposed combination of references fails to disclose or suggest a switch that is controlled by a filter that receives managed profile information, broadcasting information, and routing information, as recited in, and required by, claim 7.

Applicant also respectfully submits that the Examiner's motivation for the combination is insufficient. The Examiner appears to only be requiring that the references *could* be combined, whereas § 103 requires that the references *would* be combined. Additionally, Minborg is directed to pull technology while Toh and Litzenberger are directed to broadcasting, which are opposite teachings from each other.

Dependent Claims 2/18

Applicant respectfully disagrees with the Examiner as to whether the proposed combination discloses or suggests "subjective criteria", as recited in claims 2 and 18. Applicant believes the criteria the Examiner has identified is actually only objective, as explained below.

The Examiner agrees that Minborg alone fails to disclose or suggest that the broadcasting device is installed as a function of subjective criteria, and thus proposes to combine Minborg and Toh, including column 6, line 61 - column 7, line 16 of Toh for the disclosure of "in which said broadcasting device is installed as a function of subjective criteria". However, applicant respectfully submits that the cited portion of Toh discloses whether a source node and/or a destination node is within radio coverage range of its neighbor, as well as such movement by intermediate nodes. As a result of movement and changes in positions of nodes, link changes are made using an associativity characteristic based on the number of "ticks", which is a measure of the relative stability of the connection. Applicant respectfully submits that this metric is based

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USSN 10/250,480

Attorney Docket Q76277

upon collection of data and measurement in view of a method as shown in FIG. 2 of Toh to calculate this objective value.

Claims 2 and 18 require that the broadcasting device is installed as a function of “subjective criteria”. As explained in the present application, the term “subjective” may include civil and family status, profession, leisure activities, interests, etc., see page 5, lines 30-33 of the present application. Applicant respectfully submits that “subjective” as recited in claims 2 and 18 and further clarified by the specification is not reasonably disclosed in Minborg or Toh.

Applicant requests further clarification from the Examiner as to how the cited prior art criteria can be considered “subjective”, as required by claims 2 and 18.

Dependent Claim 3

Additionally, applicant respectfully submits that Minborg fails to disclose *a mechanism configured to retransmitting said stored information items*, as recited in claim 3. As admitted by the Examiner with respect to claim 7 at page 7 of the Office Action, Minborg and Toh in combination do not teach or disclose the claimed retransmission medium.

Dependent Claim 8

Applicant respectfully disagrees with the Examiner’s application of inherency in the rejection of claim 8. In the Final Office Action, the Examiner asserts that it is *inherent* for the node disclosed in Minborg, Toh and Litzenberger to have the node operator configure the circuit. However, applicant respectfully submits that the Examiner’s assertion of inherency is insufficient and is not the proper standard for determining obviousness under 35 U.S.C. § 103(a). For example, applicant respectfully submits that it is not *necessarily* true that a node operator would configure the circuit, as it the circuit may have been automatically configured without any requirement that a node operator be involved. The controlling law of inherency is cited at pages 15-16 of the January 3, 2007 Amendment.

Dependent Claims 9/10/12/13/14/15

With respect to the foregoing claims, applicant respectfully submits that the passages cited by the Examiner simply do not properly disclose or suggest the claimed subject matter. The passages identified by the Examiner do not disclose the claimed subject matter.

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Applicant respectfully submits that Litzenberger cannot perform its operation in real-time with respect to the performance of the actual telephone call, and profile information thus is not updated in real time as required by claim 10. Further, applicant respectfully submits that there is no disclosure in the prior art about the automatic updating as recited in claim 9. With respect to claim 12, applicant respectfully disagrees with the Examiner's assertion that Toh discloses constraints in terms of time delay as recited in claim 12. Further, applicant respectfully submits that Litzenberger does not disclose or suggest about broadcasting when the network load is low, as required by claim 14, or specifying constraints in terms of a routing delay as recited in claim 15.

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WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: March 8, 2007

Respectfully submitted,

/Mainak H. Mehta/

Mainak H. Mehta

Registration No. 46924

PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q76277

Nicolas CHUBERRE, et al.

Appln. No.: 10/250,480

Group Art Unit: 2618

Confirmation No.: 2478

Examiner: Dominic E. REGO

Filed: July 2, 2003

For: A DEVICE FOR OPTIMUM BROADCASTING OF INFORMATION IN A
TELECOMMUNICATION SYSTEM

NOTICE OF APPEAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the final
Office Action dated October 10, 2006.

The statutory fee of \$500.00 is being paid via the USPTO Electronic Filing System
(EFS). The USPTO is also directed and authorized to charge all required fees, except for the
Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any
overpayments to said Deposit Account.

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Respectfully submitted,
/Mainak H. Mehta/
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PATENT APPLICATION
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Docket No: Q76277

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Group Art Unit: 2618

Confirmation No.: 2478

Examiner: Dominic E. REGO

Filed: July 2, 2003

For: A DEVICE FOR OPTIMUM BROADCASTING OF INFORMATION IN A
TELECOMMUNICATION SYSTEM

PETITION FOR EXTENSION OF TIME UNDER 37 C.F.R. § 1.136

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.136, Applicant hereby petitions for an extension of time of two month(s), extending the time for responding to the Final Office Action dated October 10, 2006 to March 10, 2007.

The statutory fee of \$450.00 is being paid via the USPTO Electronic Filing System (EFS). The USPTO is also directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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Respectfully submitted,

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WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: March 8, 2007

Electronic Patent Application Fee Transmittal

Application Number:	10250480			
Filing Date:	02-Jul-2003			
Title of Invention:	Optimised data broadcasting device in a telecommunication system			
First Named Inventor/Applicant Name:	Nicolas Chuberre			
Filer:	Mainak Mehta			
Attorney Docket Number:	Q76277			
Filed as Large Entity				
U.S. National Stage under 35 USC 371 Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Notice of appeal	1401	1	500	500
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Extension - 2 months with \$0 paid	1252	1	450	450
Miscellaneous:				
Total in USD (\$)				950

Electronic Acknowledgement Receipt

EFS ID:	1577953
Application Number:	10250480
International Application Number:	
Confirmation Number:	2478
Title of Invention:	Optimised data broadcasting device in a telecommunication system
First Named Inventor/Applicant Name:	Nicolas Chuberre
Customer Number:	23373
Filer:	Mainak Mehta
Filer Authorized By:	
Attorney Docket Number:	Q76277
Receipt Date:	08-MAR-2007
Filing Date:	02-JUL-2003
Time Stamp:	21:44:31
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	yes
Payment was successfully received in RAM	\$ 950
RAM confirmation Number	1248
Deposit Account	194880

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part /.zip	Pages (if appl.)
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1		Q76277.pdf	98404	yes	8				
	Multipart Description/PDF files in .zip description								
	Document Description		Start	End					
	Pre-Brief Conference request		1	1					
	Pre-Brief Conference request		2	6					
	Notice of Appeal Filed		7	7					
	Extension of Time		8	8					
Warnings:									
Information:									
2	Fee Worksheet (PTO-06)	fee-info.pdf	8321	no	2				
Warnings:									
Information:									
Total Files Size (in bytes):			106725						
<p>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</p> <p><u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p> <p><u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</p>									

AMENDMENT UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
GROUP 2618
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q76277

Nicolas CHUBERRE, et al.

Appln. No.: 10/250,480

Group Art Unit: 2618

Confirmation No.: 2478

Examiner: Dominic E. REGO

Filed: July 2, 2003

For: A DEVICE FOR OPTIMUM BROADCASTING OF INFORMATION IN A
TELECOMMUNICATION SYSTEM

AMENDMENT UNDER 37 C.F.R. § 1.116

MAIL STOP AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated October 10, 2006, please amend the above-
identified application as follows on the accompanying pages.

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Amendment Under 37 CFR 1.116
U.S. Application No. 10/250480

Attorney Docket No. Q76277

AMENDMENTS TO THE SPECIFICATION

Page 1, before the first paragraph, insert the heading

Background of the Invention:

Page 2, before the third full paragraph beginning with “Accordingly, the problem”, insert the heading:

Summary of the Invention:

Page 3, before the last paragraph beginning with “Other features”, insert the heading:

Brief Description of the Drawings:

Page 4, before the second full paragraph beginning with “Thus Figure 1” insert the following heading:

Detailed Description of the Invention:

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U.S. Application No. 10/250480

Attorney Docket No. Q76277

AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions and listings of claims in the application:

LISTING OF CLAIMS:

1. (previously presented) A device for broadcasting information in an access network comprising a plurality of interconnected nodes configured for conveying streams of information items between information content providers and receiver terminals, characterized in that said device is installed in one or more network nodes and comprises a node profile management circuit configured by an operator of the network or an operator of the node as a function of objective or subjective criteria and a mechanism configured for filtering broadcast information items that controls a switch to filter said information items.

2. (previously presented) A broadcasting device according to claim 1, further comprising a mechanism configured for synthesizing downstream node profiles configured for automatically updating the node profile management circuit in which said broadcasting device is installed as a function of subjective criteria.

3. (previously presented) A broadcasting device according to claim 1, further comprising a cache memory configured for temporarily storing filtered information items and a mechanism configured for retransmitting said stored information items.

Amendment Under 37 CFR 1.116
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4. (previously presented) A broadcasting device according to claim 1, characterized in that it is applied to any type of access network.

5. (previously presented) A broadcasting device according to claim 1, characterized in that it is applied to a mobile radio network access network.

6. (Previously Presented) A broadcasting device according to claim 1, characterized in that it is applied to a mobile radio network access network using a space segment.

7. (previously presented) A broadcast network having a plurality of nodes, comprising:
a node configured to receive input information streams from an upstream node and output processed information to a downstream node, said node comprising,
a synthesizing mechanism that receives profile information about the downstream node, and is configured to synthesize said profile information and supply said synthesized information to a circuit configured to manage said profile information,
a filter mechanism configured to receive said managed profile information from said circuit and broadcasting information and routing information associated with said input information streams,
a switch, controlled by said filter mechanism, said switch configured to control transmission of information items of said upstream node for storage in a cache memory, and

Amendment Under 37 CFR 1.116
U.S. Application No. 10/250480

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a retransmission mechanism configured to retransmit said stored information items to said downstream node as a function of commands associated with said input information streams.

8. (previously presented) The network of claim 7, wherein said circuit can be configured by a network operator or a node operator.

9. (previously presented) The network of claim 7, wherein said profile information is automatically updated when said profile information integrates a variable component.

10. (previously presented) The network of claim 7, wherein the profile information can be updated in real time by the synthesizer device.

11. (currently amended) The network of claim 7, wherein said filter mechanism filters said input information streams in accordance with at least one of subjective criteria and objective criteria, by comparing said broadcasting information with said managed profile information, and if a match occurs ~~therebetween~~there between, said managed profile information is stored in said cache memory.

12. (previously presented) The network of claim 7, wherein said information items are broadcast, and each of said information items comprises a header that specifies broadcasting criteria of said information item, and constraints in terms of time delay.

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U.S. Application No. 10/250480

Attorney Docket No. Q76277

13. (previously presented) The network of claim 7, wherein when the profile of said node as determined by said circuit conforms to the broadcast criteria associated with one of said information items of said an input information stream, the filter mechanism commands the switch to retain the information item in said cache memory.

14. (previously presented) The network of claim 7, wherein the cache memory is configured to enable information to be broadcast during periods in which the load on the network is low.

15. (previously presented) The network of claim 7, wherein each of said information items are associated with retransmission commands specifying constraints in terms of a routing delay, so as to determine the type of retransmission as a function of the retransmission commands associated with the information items.

16. (previously presented) A broadcast network having a plurality of nodes, comprising:
a node configured to receive input information streams from an upstream node and output processed information to a downstream node, said node comprising,
a circuit configured to manage profile information of said downstream node,
a filter mechanism configured to receive said managed profile information from said circuit and broadcasting information and routing information associated with said input information streams, and

Amendment Under 37 CFR 1.116
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a switch, controlled by said filter mechanism, said switch configured to control retransmission of information items of said input information streams whose broadcasting criteria correspond to criteria of the profile of the downstream node.

17. (previously presented) The broadcast network of claim 16, wherein if broadcasting criteria of an information item does not correspond to the criteria of the profile of the downstream node, the filter mechanism commands the switch to discard the information item.

18. (previously presented) The broadcast network of claim 16, further comprising a synthesizing mechanism that receives profile information about the downstream node, and is configured to synthesize said profile information and supply said synthesized information to said circuit, and automatically update the circuit in which the device is installed as a function of subjective criteria.

Amendment Under 37 CFR 1.116
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REMARKS

Claims 1-18 are all the claims pending in the application. By this Amendment, the specification and claim 11 are amended for the purpose of clarity. In view of the foregoing amendments and following remarks, applicant respectfully requests withdrawal of the rejections, and allowance of the claims.

I. Objection to the claims and specification

The Examiner objects to claim 11 and the specification alleged informalities. As shown in the foregoing amendments, applicant has amended the application in manner that does not add new matter, and merely overcome the Examiner's objections. Additionally, applicant respectfully submits that the plain and ordinary meaning of "therebetween" is acceptable, and requests further clarification for this objection. However, to expedite prosecution, applicant has amended claim 11.

Accordingly, withdrawal of the objections is respectfully requested.

II. Claims 1 and 3-6 are not anticipated

Claims 1 and 3-6 stand rejected under 35 U.S.C. § 102 over Minborg. Applicant respectfully submits that Minborg fails to disclose all of the claimed combinations of features, as required for an anticipation rejection under 35 U.S.C. § 102. Applicant respectfully requests withdrawal of the rejection and allowance of claims 1 and 3-6.

The presently claimed invention relates to a device that performs broadcasting in an access network having interconnected nodes that are configured for conveying streams of information items between information content providers and receiver terminals. Further, the device is installed in a network node and includes a node profile management circuit configured

Amendment Under 37 CFR 1.116
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by an operator as a function of objective or subjective criteria, as well as a mechanism configured for filtering broadcast information items; the mechanism for filtering controls a switch to filter the broadcast said information items.

Minborg discloses a method and apparatus for information exchange in a communication network. As explained throughout its disclosure, Minborg relates to “pull” technology, that is, a user dials a number, and then a data object known as a phonepage is provided to that user, as well as the other part on the phone line. However, Minborg does not disclose anything more than a two-party conversation, and does not include broadcast items, or broadcast filter items. Further, Minborg does not disclose or even suggest “push” technology, and further discloses that the display of information to the B-party may be made dependent on the A-party. Applicant respectfully submits that Minborg cannot be considered to be directed to “push” technology.

Applicant respectfully submits that Minborg fails to disclose all of the features recited in independent claim 1. For example, but not by way of limitation, applicant respectfully submits that Minborg fails to disclose “a device for broadcasting information in an access network”, as recited in claim 1. As explained above, Minborg discloses pull technology instead of push technology (i.e., broadcasting). Thus, applicant respectfully submits that Minborg is directed to the opposite technology of the claimed invention.

Further applicant respectfully submits that Minborg fails to disclose “a mechanism configured for filtering broadcast information items that controls a switch to filter said information items”, as recited in independent claim 1. While Minborg discloses filter 861 allowing data objects to be optimized according to the rendering capabilities of UE 100, applicant respectfully submits that Minborg does not disclose any mechanism that is (a)

Amendment Under 37 CFR 1.116
U.S. Application No. 10/250480

Attorney Docket No. Q76277

configured for filtering broadcast items, and (b) controls a switch to filter the information items. Applicant respectfully submits that filter 861 of Minborg is not disclosed to control any switch. Because claim 1 requires that that filtering mechanism control the switch, applicant respectfully submits that Minborg does not disclose all of the features recited in claim 1.

At the bottom of page 3 of the Office Action, the Examiner characterizes filter 861 as being for “filtering broadcast information”. However, applicant fails to find such disclosure in Minborg, and believes that Minborg, being directed only to pull technology and not making any disclosure of using a filter for filtering broadcast information, does not disclose the feature in the manner explained by the Examiner.

Claims 2-6 depend from independent claim 1, and are believed to be allowable at least by virtue of their dependency from claim 1, which is believed to be allowable for at least the reasons discussed above.

Additionally, applicant respectfully submits that Minborg fails to disclose *a mechanism configured to retransmitting said stored information items*, as recited in claim 3. As admitted by the Examiner with respect to claim 7 at page 7 of the Office Action, Minborg and Toh in combination do not teach (much less disclose) a retransmission medium. As claim 3 also recites this feature, applicant respectfully submits that the Examiner’s admission with respect to this feature of claim 7 also applies to claim 3. Additionally, applicant respectfully submits that claim 3 requires filtering of broadcast information items, which is not disclosed in Minborg, as discussed above with respect to claim 1. For at least these additional reasons, applicant respectfully requests withdrawal of the rejection of claim 3.

Amendment Under 37 CFR 1.116
U.S. Application No. 10/250480

Attorney Docket No. Q76277

For at least the foregoing reasons, applicant respectfully requests withdrawal of the rejections, and allowance of the claims.

III. Claim 2 would not have been obvious

Claim 2 stands rejected due to alleged obviousness under 35 U.S.C. § 103(a) based on the Examiner's proposed combination of Minborg and Toh. Applicant respectfully submits that the Examiner's proposed combination fails to disclose or suggest all of the features recited in claim 2.

As a preliminary matter, applicant respectfully submits that claim 2 is allowable due at least to its dependency from independent claim 1, which is believed to be allowable for at least the reasons discussed above.

The Examiner agrees that Minborg fails to disclose or suggest that the broadcasting device is installed as a function of subjective criteria, as recited in claim 2, and thus proposes to combine Minborg and Toh for the purpose of overcoming this admitted deficiency. However, applicant respectfully submits that the combination of Toh into Minborg fails to cure this admitted deficiency of Minborg.

Toh is directed to a routing method for ad-hoc mobile networks, including broadcasting. The Examiner cites to column 6, line 61 - column 7, line 16 for the disclosure of "in which said broadcasting device is installed as a function of subjective criteria". However, applicant respectfully submits that the cited portion of Toh whether a source node and/or a destination node is within radio coverage range of its neighbor, as well as such movement by intermediate nodes. As a result of movement and changes in the positions of nodes, link changes are made, and using an associativity characteristic at each mobile host. This associativity characteristic is

Amendment Under 37 CFR 1.116
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based on the number of “ticks”, which is a measure of the relative stability of the connection.

Applicant respectfully submits that this metric is based upon collection of data and measurement in view of a method as shown in FIG. 2 to calculate this objective value.

In contrast, claim 2 requires that the broadcasting device is installed as a function of “subjective criteria”. As explained in the specification of the present application, the term “subjective” may include, for example but not by way of limitation, civil and family status, profession, leisure activities, interests, etc., see page 5, lines 30-33 of the present application.

Applicant respectfully submits that “subjective” as recited in claim 2 and further clarified by the specification is not disclosed in Minborg or Toh, and the only possible characterization of the passage of Toh cited by the Examiner is objective.

For at least the foregoing reasons, applicant respectfully requests withdrawal of the rejections, and allowance of claim 2.

IV. Claims 7-10, 12-16 and 18 would not have been obvious

Claims 7-10, 12-16 and 18 stand rejected under 35 U.S.C. § 103(a) due to alleged obviousness based on the Examiner’s proposed combination of Minborg and Toh with Litzenberger. Applicant respectfully submits that the Examiner’s proposed combination fails to disclose or suggest all of the claimed combinations of features, and thus requests withdrawal of the rejections, and allowance of the claims.

Claim 7 requires a filter mechanism configured to receive managed profile information from the circuit and broadcasting information and routing information associated with the input streams. The Examiner asserts that Minborg discloses this feature. As explained above with respect to claim 1, applicant respectfully submits that Minborg does not disclose this claimed

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feature, at least because (a) Minborg is not directed to broadcasting and thus does not disclose broadcasting information items, and (b) the filter 861 of Minborg is not disclosed to control a switch. For at least these same reasons, applicant respectfully submits that Minborg fails to disclose or suggest all of the similar features recited in independent claim 7.

Further, the Examiner agrees that Minborg and Toh do not disclose or suggest a retransmission mechanism as recited in claim 7, and proposes to combine Litzenberger with Minborg and Toh to render obvious this claimed feature.

Applicant respectfully submits that the Examiner's proposed combination of references fails to disclose or suggest all of the claimed combinations of features recited in claim 7. As explained above, Minborg does not disclose or suggest a filter mechanism that receives broadcasting information as recited in claim 7, and applicant respectfully submits that the Examiner's proposed combination fails to cure these admitted deficiencies.

For example, but not by way of limitation, applicant respectfully submits that Litzenberger cannot be properly combined with Minborg and Toh. Litzenberger is directed to the architecture of a local area network (LAN) for a large scale billing system for a telephone company. On the other hand, Toh is directed to communication via a mobile network. Applicant respectfully submits that the transmission mechanism of Litzenberger is not properly combinable with the mobile communication system of Toh. Litzenberger is concerned with ensuring that a single copy of call record data is transmitted to various departments in a telephone company, and does not concern itself with any changes in the area of coverage, or movement of nodes to and from one another. Any retransmission mechanism combined into Toh and Minborg would have to be concerned with such changes; otherwise, it is not clear how Litzenberger would be

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reconfigured to work with the scheme of Minborg and Toh. For at least this reason, applicant respectfully submits that the Examiner's proposed combination is improper and should be withdrawn.

Additionally, applicant respectfully submits that while Litzenberger teaches that the call record are generated off-line and then broadcast via a LAN to client platforms, Toh requires real-time transmission of such data in its ad-hoc mobile network. Because Litzenberger requires the information to be broadcast well after the message was sent while Toh requires immediate broadcast, applicant respectfully submits that Litzenberger and Toh teach away from each other, and are not properly combinable.

Applicant also respectfully disagrees with the Examiner's characterization of column 6, lines 48-60 of Toh as disclosing a synthesizing mechanism. Applicant respectfully submits that the passage cited by the Examiner actually only teaches that intermediate nodes *relay* the information. Applicant respectfully submits that relaying information does not disclose *synthesizing* information, as required by claim 7.

Thus, applicant respectfully submits that the Examiner's proposed combination of Minborg, Toh and Litzenbeger is not proper and fails to teach or suggest the retransmission mechanism as recited in claim 7. Further, as explained above, applicant respectfully submits that the proposed combination of references fails to disclose or suggest a switch that is controlled by a filter that receives managed profile information, broadcasting information, and routing information, as recited in, and required by, claim 7.

Applicant also respectfully submits that the Examiner's motivation for the combination is insufficient. The Examiner appears to only be requiring that the references *could* be combined,

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whereas under 35 U.S.C. § 103(a) requires that the references *would* be combined. Based on this, applicant respectfully submits that the Examiner has not shown sufficient motivation to combine the references, and that the combination is improper and must thus be withdrawn. As noted above, Minborg is directed to pull technology while Toh and Litzenberger are directed to broadcasting. Applicant respectfully submits that the references teach away from each other at least in this way.

Claims 8-15 depend from independent claim 7, and are believed to be allowable for at least the same reasons as discussed above with respect to independent claim 7. Further, applicant respectfully submits that the dependent claims are also allowable for the following additional reasons.

With respect to claim 8, the Examiner asserts that it is inherent for the node disclosed in Minborg, Toh and Litzenberger to have the node operator configure the circuit. However, applicant respectfully submits that the Examiner's assertion of inherency is insufficient and is not the proper standard for determining obviousness under 35 U.S.C. § 103(a). For example, applicant respectfully submits that it is not necessarily true that a node operator would configure the circuit, as it the circuit may have been automatically configured without any requirement that a node operator be involved.

The controlling law of inherency is clear with respect to its requirements. Just because a characteristic exists in the prior art is insufficient to establish inherency. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). As explained in *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999), "The mere fact that a certain thing may result from a given set of

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circumstances is not sufficient.” Further, “[a]n invitation to investigate is not an inherent disclosure” where a prior art reference “discloses no more than a broad genus of potential applications of its discoveries.” *Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings*, 370 F.3d 1354, 1367, 71 USPQ2d 1081, 1091 (Fed. Cir. 2004). Moreover, “...the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)

Applicant also refers the Examiner to MPEP 2112.

For at least the foregoing reasons, applicant respectfully submits that the rejection of claim 8 lacks a sufficient basis in view of “inherency”, and that it should therefore be withdrawn.

Turning to claims 9 and 10, applicant respectfully submits that the passage cited by the Examiner fails to disclose or suggest the claimed subject matter. Further, applicant respectfully submits that Litzenberger cannot perform its operation in real-time with respect to the performance of the actual telephone call, and profile information thus is not updated in real time as required by claim 10. Further, applicant respectfully submits that there is no disclosure about the automatic updating as recited in claim 9.

With respect to claim 12, applicant respectfully disagrees with the Examiner’s assertion that Toh discloses constraints in terms of time delay as recited in claim 12. Applicant respectfully requests further clarification of the Examiner’s basis for this characterization. Similarly, applicant respectfully disagrees with the Examiner’s characterizations of the cited passages of the prior art with respect to claims 13-15, and thus also requests further clarification thereof. For example but not by way of limitation, Litzenberger does not disclose or suggest

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about broadcasting when the network load is low, as required by claim 14, or specifying constraints in terms of a routing delay as recited in claim 15.

Turning to independent claim 16, a filter mechanism configured to receive managed profile information from the circuit, and broadcasting information and routing information associated with the input information streams, is recited. Claim 16 also recites a switch controlled by the filter mechanism. The Examiner asserts that Minborg discloses this feature. As explained above with respect to claims 1 and 7, applicant respectfully submits that Minborg does not disclose this claimed feature, at least because (a) Minborg is not directed to broadcasting and thus does not disclose broadcasting information items, and (b) the filter 861 of Minborg is not disclosed to control a switch. For at least these same reasons, applicant respectfully submits that Minborg fails to disclose or suggest all of the similar features recited in independent claim 16.

Further, the Examiner agrees that Minborg and Toh do not disclose or suggest a switch configured to control retransmission as recited in claim 16, and proposes to combine Litzenberger with Minborg and Toh to render obvious this claimed feature.

As explained above, Minborg does not disclose or suggest a filter mechanism that receives broadcasting information as recited in claim 16, and applicant respectfully submits that the Examiner's proposed combination fails to cure these admitted deficiencies. Applicant also submits that the references cannot be properly combined for at least the reasons discussed above with respect to claim 7.

Thus, applicant respectfully submits that the Examiner's proposed combination of Minborg, Toh and Litzenbeger is not proper and fails to teach or suggest a switch that is

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controlled by a filter that receives managed profile information, broadcasting information, and routing information, as recited in, and required by, claim 16.

With respect to claim 18, applicant respectfully submits that the proposed combination of references fails to disclose or suggest the subjective criteria recited in claim 18. As explained above with respect to claim 2, Toh fails to cure this admitted deficiency of Minborg.

For at least the foregoing reasons, applicant respectfully requests withdrawal of the rejections, and allowance of claims 7-10, 12-16 and 18.

V. Claim 17 would not have been obvious

Claim 17 stands rejected under 35 U.S.C. §103(a) due to alleged obviousness based on the Examiner's proposed combination of Minborg, Toh, Litzenberger and Mallard. Applicant respectfully submits that claim 17 is allowable at least by virtue of its dependency from independent claim 16, which is believed to be allowable for at least the reasons discussed above. Additionally, applicant respectfully submits that the combination of the references is improper and lacks sufficient motivation as explained above.

VI. Claim 11 would not have been obvious

Claim 11 stands rejected under 35 U.S.C. §103(a) due to alleged obviousness based on the Examiner's proposed combination of Minborg, Toh, Litzenberger and Funaya. Applicant respectfully submits that claim 11 is allowable at least by virtue of its dependency from independent claim 7, which is believed to be allowable for at least the reasons discussed above. Additionally, applicant respectfully submits that the combination of the references is improper and lacks sufficient motivation as explained above.

VII. Conclusion

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In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: January 4, 2007

Electronic Acknowledgement Receipt

EFS ID:	1415018
Application Number:	10250480
International Application Number:	
Confirmation Number:	2478
Title of Invention:	Optimised data broadcasting device in a telecommunication system
First Named Inventor/Applicant Name:	Nicolas Chuberre
Customer Number:	23373
Filer:	Mainak Mehta
Filer Authorized By:	
Attorney Docket Number:	Q76277
Receipt Date:	03-JAN-2007
Filing Date:	02-JUL-2003
Time Stamp:	22:39:44
Application Type:	U.S. National Stage under 35 USC 371

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Submitted with Payment	no
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part /.zip	Pages (if appl.)
1		Q76277.pdf	128700	yes	19

Multipart Description/PDF files in .zip description			
Document Description		Start	End
Amendment After Final		1	1
Specification		2	2
Claims		3	7
Applicant Arguments/Remarks Made in an Amendment		8	19

Warnings:**Information:****Total Files Size (in bytes):**

128700

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New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

PATENT APPLICATION FEE DETERMINATION RECORD

Effective January 1, 2003

Application or Docket Number

10

250480

CLAIMS AS FILED - PART I

(Column 1)

(Column 2)

TOTAL CLAIMS		
FOR	NUMBER FILED	NUMBER EXTRA
TOTAL CHARGEABLE CLAIMS	6 minus 20 =	1
INDEPENDENT CLAIMS	1 minus 3 =	1
MULTIPLE DEPENDENT CLAIM PRESENT <input type="checkbox"/>		

* If the difference in column 1 is less than zero, enter "0" in column 2

CLAIMS AS AMENDED - PART II

(Column 1)

(Column 2)

(Column 3)

AMENDMENT A		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total	* 18	Minus	** 20	=
	Independent	* 3	Minus	*** 3	=
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <input type="checkbox"/>				

SMALL ENTITY TYPE ☐

OR OTHER THAN SMALL ENTITY

RATE	FEE
BASIC FEE	375.00
X\$ 9=	
X42=	
+140=	
TOTAL	

RATE	FEE
BASIC FEE	750.00
X\$18=	
X84=	
+280=	
TOTAL	

SMALL ENTITY

OR OTHER THAN SMALL ENTITY

RATE	ADDITIONAL FEE
X\$ 9=	
X42=	
+140=	
TOTAL ADDIT. FEE	

RATE	ADDITIONAL FEE
X\$18=	
X84=	
+280=	
TOTAL ADDIT. FEE	

AMENDMENT B		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total	* 18	Minus	** 20	=
	Independent	* 3	Minus	*** 3	=
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <input type="checkbox"/>				

RATE	ADDITIONAL FEE
X\$ 9=	
X42=	
+140=	
TOTAL ADDIT. FEE	

RATE	ADDITIONAL FEE
X\$18=	
X84=	
+280=	
TOTAL ADDIT. FEE	

AMENDMENT C		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total	*	Minus	**	=
	Independent	*	Minus	***	=
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <input type="checkbox"/>				

RATE	ADDITIONAL FEE
X\$ 9=	
X42=	
+140=	
TOTAL ADDIT. FEE	

RATE	ADDITIONAL FEE
X\$18=	
X84=	
+280=	
TOTAL ADDIT. FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20."

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3."

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.